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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,084	01/14/2000	William R. Campbell	051091-0401	7886

7590

09/08/2003

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 09/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/483,084

Applicant(s)

CAMPBELL ET AL.

Examiner

Alton N. Pryor

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 12-16, 39-44 and 58-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 58, 72-77 is/are allowed.
- 6) ☐ Claim(s) 12-16, 39, 41-43, 62, 64-71 and 78-86 is/are rejected.
- 7) ☐ Claim(s) 40, 44, 59-61 and 63 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-16,39,41,43,62,64-71,78-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Komer (US 5773422; 6/30/98). Komer teaches a non-aqueous antiparasitic composition comprising polysorbate 80 (emulsifier), propylene glycol (polyol), n-methylpyrrolidone, benzyl alcohol, and ivermectin or oxytetracycline. Komer teaches that the composition can be diluted with water and the composition is topically applied. See abstract, column 2 line 10 – column 6 line 31.

Claims 62,64,65,67-71,78-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Lo et al (EP 045 655; 2/10/82). Lo teaches a non-aqueous composition comprising polysorbate 80 (emulsifier), propylene glycol (polyol), n-methylpyrrolidone, benzyl alcohol, and ivermectin. Lo teaches that the composition can be diluted with water and the composition is topically applied. See abstract, page 2 line 9 – page 6 line 10.

Claims 62,64,65,67-71,78-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Grant et al (WO 9818463; 5/7/98). Grant teaches a non-aqueous antiparasitic composition comprising polysorbate 80 (emulsifier), propylene glycol

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(polyol), n-nethylpyrrolidone, benzyl alcohol, and ivermectin. Grant teaches that the composition can be diluted with water and the composition is topically applied. See abstract, page 1 line 4 – page 5 line 21, page 9 line 15-28, page 14 lines 1-20

Claims 78-81,84,86 are rejected under 35 U.S.C. 102(b) as being anticipated by Lo on record. Lo teaches a non-aqueous composition comprising ivermectin (biological active), Tween 80 (emulsifier), glycerol formal (polyol) and benzyl alcohol (monohydric alcohol). The composition can be diluted with water. Lo teaches a method of administering the above composition via injection. See abstract, column 4 lines 41-46.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komer on record as applied to claims 12-16,39,41,43,64-71,78-86 above in view of Grant on record. Komer teaches all that is recited in claim 42 except for the invention comprising abamectin. However, Grant teaches that an antiparasitic composition comprising abamectin. It would have been obvious to one having ordinary skill in the art to modify the composition of Komer to include the abamectin taught by Grant. One would have been motivated to do this in order to enhance the overall effectiveness of the antiparasitic composition.

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Other Matters

Claims 59-61 are depended from cancelled claim 52. Please correct.

Claim Objection / Allowable Subject Matter


Claims 40, 44,63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 58,72-77 are allowable. The prior art does not teach or suggest applying benzyl alcohol to plants or crops or ground. The prior art does not teach or suggest administering instant formulation of claim 58 in the drinking water of animals.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 703 308-4691. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.


ALTON N. PRYOR
PRIMARY EXAMINER
Alton Pryor
Primary Examiner
AU 1616